

DOING IT RIGHT!



SUSTAINABLE ENERGY AND INDIGENOUS PEOPLES

**A briefing paper by the Indigenous Peoples Major Group,
with contributions from the Danish Institute for Human Rights.**

February 2018



Introduction: Access to energy for all - at what price?

According to the OECD and the IEA 14% of the world's population currently has no access to electricity. 84% of these people live in rural areas. Indigenous peoples comprise 15% of the world's extreme poor, while representing only 5% of the global population – and make up a staggering one third of the world's 900 million extremely poor rural people (IFAD 2018). **Indigenous peoples are therefore a critical demographic that needs to be put at the centre of the global dialogue on energy** if SDG 7 on ensuring access to affordable, reliable, sustainable and modern energy for all is to be achieved.

Despite this fact, **indigenous peoples suffer invisibility when it comes to our understanding of energy access**. There is little consistent and comparable disaggregated data available to provide a clear global picture of indigenous peoples' access to energy in contrast to non-indigenous populations. Even major reports from key initiatives aligned with SDG 7 [1] either don't mention, or only superficially refer to, indigenous peoples and fail to examine their unique challenges as a distinct group with regards to energy access.

At the same time, **indigenous territories host big renewable energy projects** and other “clean energy” such as large hydro dams, wind mill farms and geothermal plants without meaningful consultations with and consent by indigenous peoples who have prior rights to their lands and resources. These projects have resulted in conflicts, displacements, destruction of livelihoods, and have violated indigenous peoples' rights and undermined their self-determined development. Furthermore, often the main objectives of many of these projects are to supply energy for industrial activity, urban areas and other infrastructure projects for profit, rather than to provide energy for indigenous peoples and marginalised communities.




Source: Verde noticias.org

The integral role of Goal 7 in meeting the other SDGs

It is recognised that energy is an essential enabling factor that cross-cuts to contribute to progress across the SDGs. Energy emerges as a critical component for ending poverty (SDG1) and hunger (SDG2), and is related to economic development, job creation (SDG8) and women's empowerment (SDG 5) among others.

[1] Such as the International Energy Agency's annual Energy Access Outlook reports: OECD and IEA (2017). Energy Access Outlook: From Poverty to Prosperity.; and the Sustainable Energy for All reports on social inclusion: SEforAll (2017). Opening Doors: Mapping the Landscape for Sustainable Energy, Gender Diversity & Social Inclusion.



This intersection manifests itself in myriad ways. Energy is an enabling factor for key economic sectors (e.g., agriculture, industry, health, education and technology), including the production of goods and services that generates employment. In terms of food security and combatting hunger, energy facilitates agricultural food production and distribution. The use of electricity allows the replacement or more effective management of time consuming rural activities, especially for women and children, thus playing a role in gender empowerment. Improved energy access can support the provision of safe drinking water. Clean energy for cooking, heating and lighting additionally has health benefits given the huge negative health impacts of dirty fuel used at the household level. Better access to energy also contributes significantly to increasing education outcomes.

Current analyses indicate that SDG 7 relates strongly to almost all the other SDGs, with a strong inter-relation with the achievement of at least 11 of the other SDGs. [2] Critically, sustainable energy is a central factor in combatting climate change (SDG 13) which also has cross-cutting impacts on the other SDGs and is tied to the implementation of the Paris Agreement on climate change.

The strong interlinkages between SDG 7 and the other SDGs highlight the need to ensure that any action towards SDG implementation that seeks to leave no group behind must carefully consider how the energy targets are met. Given that access to clean, sustainable energy is disproportionately lower for indigenous communities, their ability to achieve the other SDGs will be negatively impacted without consideration of their specific needs and circumstances. Equally important, efforts towards achieving SDG 7 risk violating international human rights law, and further disadvantage indigenous peoples. Table 2 provides an overview of the inter-relation between relevant targets under SDG 7 and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), providing an indication of how rights-related issues should be considered in tandem with the implementation of SDG 7.

[2] Alloisio, I., Zucca, A. and Carrara, S. (2017). SDG 7 as an enabling factor for sustainable development: the role of technology innovation in the electricity sector (DRAFT). Fondazione Eni Enrico Mattei (FEEM).

Table: Relation between SDG 7 targets and indigenous peoples' rights^[3]

SDG 7 Targets	Relevant UNDRIP Article
SDG 7: Ensure access to affordable, reliable, sustainable and modern energy for all	
7.1 By 2030, ensure universal access to affordable, reliable and modern energy services .	21.1 Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.
	21.2 States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities
7.b By 2030, expand infrastructure and upgrade technology for supplying modern and sustainable energy services for all in developing countries, in particular least developed countries, small island developing States and landlocked developing countries, in accordance with their respective programmes of support.	21.1 Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.
	32.2 States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, <u>utilisation</u> or exploitation of mineral, water or other resources.

[3]Taken from the Matrix on Sustainable Development and Indigenous Peoples from the Indigenous Navigator

Indigenous peoples experiences with sustainable energy projects

While considered clean and green, poorly planned renewable hydroelectric, geothermal, wind and solar power projects can have serious negative impacts on communities and the environment. **Large dams, in particular, have caused widespread displacement of indigenous peoples and communities**, infringing on their rights to land, territories and resources, while destroying livelihoods and even wiping out the cultures of affected populations.

The World Commission on Dams (WCD) [4] concluded that the economic, social and environmental costs of **large dams** often outweigh their benefits. Their comprehensive report from 2000 revealed that large dams have forced 40-80 million people from their homes and lands, with impacts including extreme economic hardship, community disintegration, and an increase in mental and physical health problems. [5] Furthermore, globally speaking, large dams have seriously and disproportionately affected indigenous peoples and ethnic minorities, the majority of whom have suffered a pronounced decline in human development outcomes as a result of dam developments. Among the significant impacts experienced by indigenous peoples are loss of lands and livelihoods, undermining of the fabric of their societies, cultural loss, fragmentation of political institutions, breakdown of identity, and human rights abuses. [6]

Recent examples include the Belo Monte Dam in Brazil, the world's fourth largest hydro-electric project, which displaced more than 20,000 people at the end of 2015, including 13,000 who belong to indigenous Amazon tribes. The recent decision of the government of Brazil to stop building large dams is a positive development. In Asia, the lower Sesan 2 Dam fully submerged a village in Stung Treng, Cambodia, in early February 2018, displacing 5,000 indigenous Bunong, minority Lao people and ethnic Khmer communities. These communities have lost all their traditional sources of livelihood, such as farms, fishing grounds and riverbank gardens as well as homes, temples, ancestral graves and a historic site. [7] Another recent case is the Thoubal Multipurpose Hydroelectric Project in northeast India, which submerged entire villages and extensive agricultural and forest lands belonging to the Tangkhul Naga and Kuki people with the closing of the Mapithel dam reservoir dam in January 2015. [8]



Stung Treng, Cambodia. Locals were forced to wade through floods to take their belongings to their farmland, one kilometre above their village. The water engulfed the homes of about 70 hold-out families. KT/Mai Vireak (Oct. 2017 dam flooding)

Source: Khmer Times

[4] The World Commission on Dams (WCD) was a multi-sectoral body established in May 1998 by the World Bank and the International Union for the Conservation of Nature (IUCN) to review the development effectiveness of large dams and assess alternatives for water resources and energy development. The Commission conducted extensive public consultation and voluminous evidence-based research and released its groundbreaking report "Dams and Development: A New Framework for Decision-Making" in November 2000.

[5] Imhof, A., Wong, S., & Bosshard, P. (2002). Citizens' Guide to the World Commission on Dams, International Rivers Network. Berkeley, CA, USA.

[6] Colchester, M.; Forest Peoples Programme. (2002). Dams, Indigenous Peoples and Ethnic Minorities (Final Version). World Commission on Dams (WCD).

[7] International Rivers. (2018, February 1). Cambodian Village Now Fully Submerged by Lower Sesan 2 Dam. Retrieved February 10, 2018, from <https://www.internationalrivers.org/resources/press-release-cambodian-village-now-fully-submerged-by-lower-sesan-2-dam-16650>

[8] Citizens Concern for Dams and Development. Urgent Appeal to Stop Blocking of Thoubal River / Filling Up of Mapithel Dam Reservoir and to Desist From Forced Eviction in Mapithel Valley, Manipur. Centre for Research and Advocacy, Manipur.

Geothermal projects are also causing violations of indigenous peoples' rights, aggravated by inadequate resettlement plans. The Olkaria IV geothermal power plant in Kenya, Africa affects an area comprising the Maasai community villages of Olo Mayana, Olonongot, Olosinyat. In the resettlement action plan, the company KENGEN and other Olkaria-based companies committed to provide for livelihood restoration, community land rights, housing, water systems, a cultural centre as well as monetary compensation. However, Maasai community members complained that the project had put excessive stress on their lives. Displaced families complained of being resettled without official land ownership documents in a relocation site located close to other geothermal drilling sites. [9]



A wind park in the southern Mexican state of Oaxaca, where local communities and indigenous peoples are fighting the installation of wind turbines in their territory. Credit: Photo as of 2015; Courtesy of the International Service for Peace (SIPAZ)

Source: Inter Press Service

Wind farm projects are also reported to trigger conflict and resistance by affected indigenous peoples due to adverse effects related to noise as well as land and water pollution. In the Isthmus of Tehuantepec, Oaxaca, South Mexico, a wind corridor funnels extremely high-speed winds between the Pacific and the Atlantic Ocean. Since 2008, energy investors have developed approximately 20 wind power projects in the area. [10] In total, 1,608 wind turbines have been installed, generating 1,751.47 MW. However, indigenous communities affected by the windmills claim that they were not formally consulted prior to the construction of the windmill farms on their lands. They have also complained about illegal land leasing contracts and harmful environmental impacts of the construction and operation of the wind turbines. Additionally, indigenous communities have made strong complaints against the privatisation and dispossession of their lands and local resources. [11] In the Arctic region, a proposed wind farm to be built in the Fosen peninsula in Norway will lead to the reduction of viable pasture areas and potentially make reindeer herding unsustainable, jeopardising the cultures and way of life of herding communities that will be impacted. Some have argued that the project violates Norway's obligation to safeguard the rights of the Saami, including their ability to maintain culture, languages and traditions, as reindeer herding is generally believed to be a bearer of the Southern Saami language and culture. [12]

[9] Sena, K. (2015). Renewable Energy Projects and the Rights of Marginalised/ Indigenous Communities in Kenya. IWGIA and IPNSCCC.

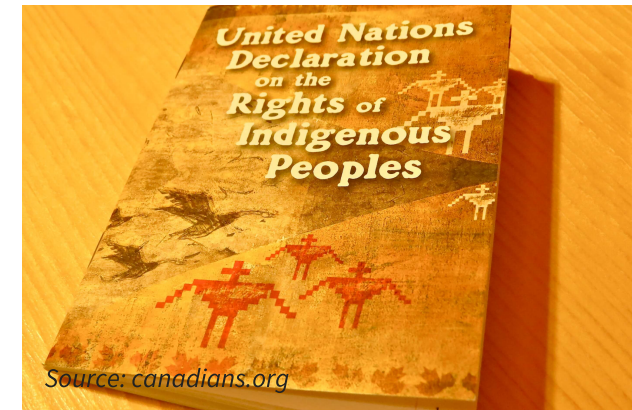
[10] Wragg, T., & Hughes, B. (2015, July 22). Mexican winds and the need for community alternatives. Retrieved February 10, 2018, from Opendemocracy:

[11] Environmental Justice Atlas. (n.d.). Corporate Wind Farms in Ixtepec vs. community's initiative, Oaxaca, Mexico. Retrieved February 2018, 2018, from Environmental Justice Atlas.

[12] Løsnes, A. B. (2016, April 20). Saami Reindeer Herders Fight Wind Farm Project. Retrieved February 10, 2018, from Arctic Deeply.

Guidance from international human rights law

The negative impacts of sustainable energy development can be avoided by ensuring that energy projects adhere to existing international human rights laws and norms relating to indigenous peoples. The two main international instruments that explicitly define indigenous peoples' rights under international law, the **UN Declaration on the Rights of Indigenous Peoples (UNDRIP)** and the **ILO Convention No. 169**, should guide sustainable energy related activities.



Given the strong private sector engagement in sustainable energy projects, companies with inadequate knowledge of local-level issues are at risk of violating indigenous peoples' rights. When it comes to **identifying whether a given project will have impacts on indigenous peoples' rights**, companies are required to apply the criteria enshrined in ILO Convention No. 169, rather than relying solely on official accounts of whether or not there are any indigenous peoples in the area of operation. A central component of these criteria is whether there are people who identify themselves as indigenous peoples – regardless of whether or not the state acknowledges their indigenous identity.

Equally important for assessing potential impacts on indigenous peoples' human rights is the understanding of their **land rights**. National standards often fall short of securing indigenous peoples' collective rights to the lands, territories and resources they have traditionally possessed, occupied or used, as reflected in international human rights law.

Operating in complex contexts with insufficient enforcement of international human rights requires expert knowledge and advice. As a first step, companies are encouraged by the UN Guiding Principles on Business and Human Rights (see box) to seek knowledge of the area they are planning to operate in from human rights experts.

Further, companies must engage in **meaningful consultations** with potentially affected indigenous communities. International human rights law offers clear guidance on what that entails. Consultations must be carried out in good faith, through appropriate procedures, and through indigenous peoples' own representative institutions. Further, consultations should be undertaken with the objective of reaching **free, prior and informed consent**, implying that consultations must be transparent, free from coercion, and that all relevant information must be made available to the community.

In cases where companies did not get it right, and indigenous communities had their rights violated, the companies' responsibility to respect human rights requires **active engagement in remediation**, by the company itself, or in cooperation with other actors. The UNDRIP provides guidance on what this means, namely restitution, or, where this is not possible, just, fair, and equitable compensation.

UN Guiding Principles on Business and Human Rights: A key tool for human rights-based energy development

The UN Guiding Principles (UNGPs) on Business and Human Rights were adopted by member states in 2011. They represent a strong global framework for defining and operationalising the corporate responsibility to respect human rights, while also outlining what the state duty to respect, protect and fulfil human rights entails, when it comes to regulating the operations of corporate actors. The UN Guiding principles thus offer valuable guidance for energy producers who want to become truly sustainable in their production by respecting human rights throughout their operations.

The Guiding Principles clearly state that businesses have an independent **responsibility to respect** human rights, and that this entails **avoiding infringement with the human rights of others, and addressing adverse human rights impacts with which they are involved**. The Guiding Principles further point towards the need for businesses to **pay particular attention to vulnerable groups, including indigenous peoples**, and to use the relevant UN instruments in that regard.

Undertaking adequate **human rights due diligence** is at the heart of companies' responsibility to respect human rights in their operations. The Guiding Principles designate four essential steps companies need to take when operating in areas where projects may affect indigenous peoples:

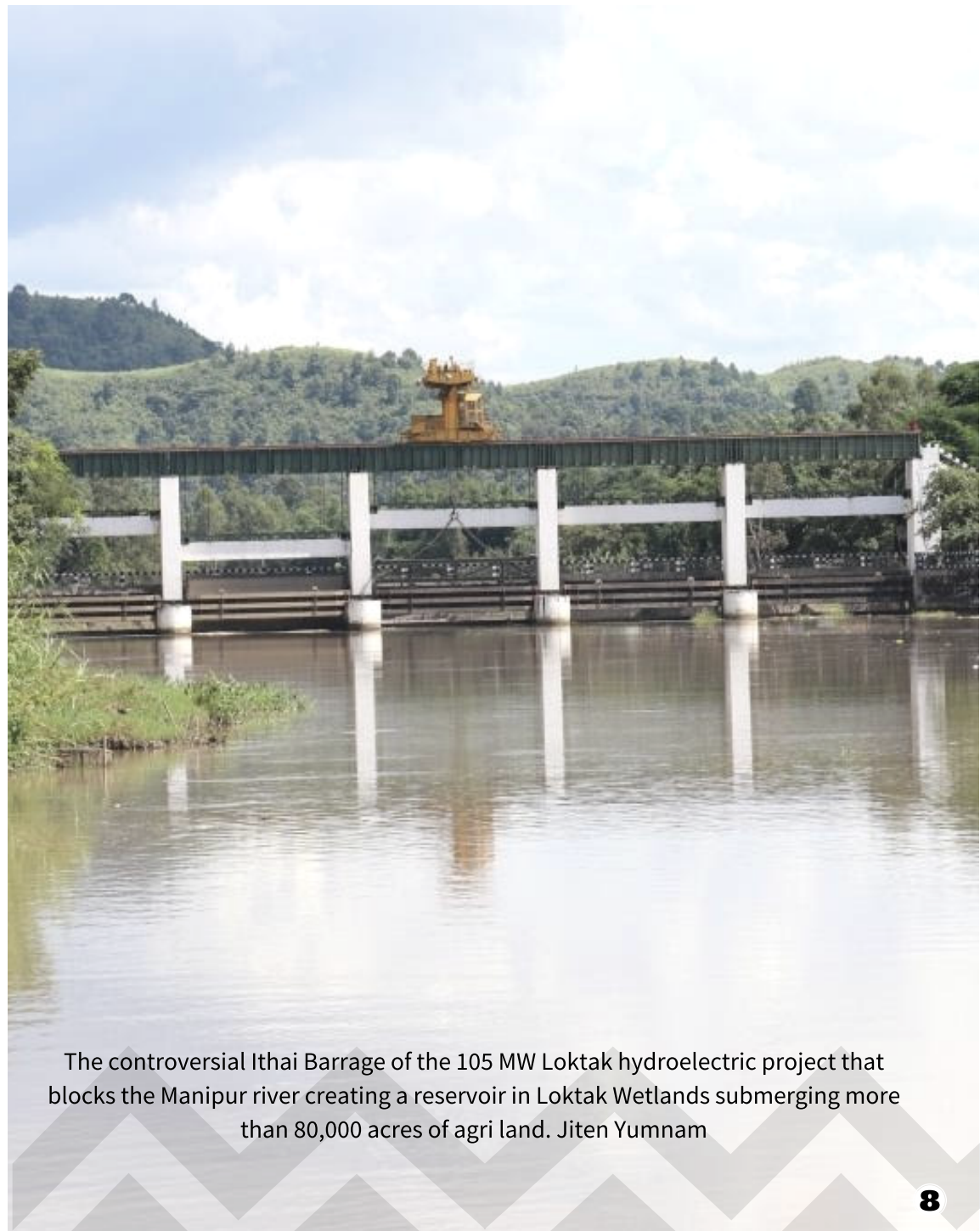
1. **Assess impacts on indigenous peoples' rights;**
2. **Integrate findings from impact assessments into relevant internal processes;**
3. **Monitor performance and responses to ensure any impacts are being effectively addressed; and,**
4. **Report and communicate externally on such responses.**

THE UN GUIDING PRINCIPLES CALL UPON BUSINESS ENTERPRISES TO HAVE

- a. **A policy commitment to meet their responsibility to respect human rights**
- b. **A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights**
- c. **Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute**

There is a growing recognition among private sector actors that attaining the highest possible standards in respect of indigenous peoples' rights is simply a matter of sound business principles and good practice. Comprehensive due diligence processes are crucial in maintaining a **positive relationship** between the company and community. In addition to the relevant legal obligations and reputational advantages for companies, operating with due diligence in respect of indigenous peoples' rights leads to **security of investments, mutually beneficial partnerships, risk minimisation and conflict resolution.**

The UN Guiding Principles on Business and Human Rights specifically state that the responsibility to respect human rights is a global standard of expected conduct that exists over and above compliance with national laws and regulations protecting human rights. In cases where national law is not compliant with international human rights law, companies must therefore refer to the UNDRIP and ILO Convention No. 169.



The controversial Ithai Barrage of the 105 MW Loktak hydroelectric project that blocks the Manipur river creating a reservoir in Loktak Wetlands submerging more than 80,000 acres of agri land. Jiten Yumnam

Good practices: Rights-based sustainable energy development

In addition to safeguarding against rights abuses and negative development impacts on indigenous peoples, positive approaches to renewable energy production should be promoted and adopted as part of the SDG implementation and climate action frameworks. Chile presents an example of how **policy-level approaches** can be pursued to ensure indigenous peoples rights are integrated in the heart of national energy policies and that indigenous peoples' self-determined development is supported. The government of Chile, in 2017, published its Energy Policy towards 2050, including a specific Indigenous Peoples Chapter. [13]

This Chapter was developed in a participatory manner, through comprehensive consultations with indigenous organisations, and is embedded in Chile's commitment to indigenous peoples' rights under international law.

The aims are to:

- Recognise indigenous peoples' rights within the energy sector, in accordance with ILO Convention No. 169;
- Promote a new relationship between indigenous peoples, the state and companies, in which intercultural dialogue becomes the engine for country's energy-related development;
- Promote an energy development that is coherent with the protection of indigenous peoples' cultural heritage and their environment; and
- Recognise the cultural diversity of indigenous peoples in Chile, implying that the Ministry of Energy must undertake activities that are adequately tailored to the reality of each people and their respective territories.

The Indigenous Peoples Chapter outlines five complementary focus areas that the Ministry of Energy will work on in parallel:

1. Energy development that guarantees respect for indigenous peoples' rights, including mechanisms for capacity-building of state and indigenous institutions, and institutionalised participation of indigenous peoples in studies, processes and plans formulated by the Ministry of Energy.
2. Strengthening energy generation by indigenous peoples, e.g., generating conditions that allow the interested communities to study, analyse and implement their own energy-generating projects
3. Ensure equity in the access to energy services, by closing the existing access gaps between the indigenous and non-indigenous population, including through targeted public investments and support to small-scale renewable energy projects in indigenous communities.
4. Information and capacity-building on energy choices, with particular emphasis on renewable energy, for indigenous communities and technicians
5. Enhance energy efficiency in indigenous communities, including through more diversification and more efficient use of firewood.

[13] See: <http://www.energia.gob.cl/sites/default/files/capitulo-de-pertinencia-indigena-de-la-politica-energetica-nacional.pdf>

At the **community-level**, indigenous-led approaches to renewable energy production can inspire further human rights-based action on the ground. Such initiatives are more likely to be effective in reducing poverty and serving the self-determined development goals of communities. Experiences with **community-based micro hydro power** in Asia have had promising results. The Community-Based Renewable Energy Systems (CBRES) in the Cordillera region of the Philippines includes a number of community-led micro-hydro power developments that have had numerous sustainable development benefits for the community, including a reduction in dependence on wood for lighting and a reduction in the work burden of women through the use of water-powered rice pounders. [14] These energy systems are sustainably financed through contributions from the local community. Communities in Sabah and Sarawak in Malaysia have designed micro-hydro systems that do not limit river flows by more than 60%, ensuring that river ecosystem functions are not negatively impacted. This award-winning initiative emphasises community participation all aspects of project conceptualisation, design, installation, and implementation. Community benefits include electricity access, clean water, and the powering of agro-processing equipment. [15]



The Microhydro powers the Buneg rice mill benefitting the *Tinggian* indigenous peoples in Buneg, Abra in Cordillera, northern Philippines. Photo credit: Sibol ng Agham at Teknolohiya (SIBAT), Inc.

A **community-based solar project** in the Northern Territory of Australia has resulted in indigenous communities returning to ancestral lands, re-establishing self-sufficiency, sustainability, and their indigenous culture. The Manungurra Aboriginal Corporation initiated the solar project in partnership with the Indigenous Business Australia (IBA). IBA contributed \$240,000 and a total of 36 kW of solar panels and 67 kWh of gel battery storage. The Manungurra Aboriginal Corporation and the residents share in the lease repayments, which are less than half of what they used to spend on diesel generators. Switching from diesel to solar power has brought significant financial and other “life changing” benefits. Power costs have dropped, the solar panels provide additional roof shading and insulation, people no longer have to make the long trip for diesel, and homes can be cooled without the negative health impacts of diesel fumes and loud generator noise. Alleviating the power cost has had the desired effect of bringing people back to the community, where they have been able to set up a school and expect to develop their cattle and farming economy. [16]

[14] SIBAT (2012). CBRES and the Rights of Indigenous Peoples. Sibol ng Agham at Teknolohiya (SIBAT) Unpublished

[15] Lasimbang, A. (n.d.). “A Simple Technology for Complicated Woe” Community Based Micro Hydro for rural electrification in Sabah and Sarawak. Retrieved Feb 10, 2018, from <https://www.scribd.com/document/22851969/Community-Based-Micro-Hydro-Info> [

[16] People-powered: renewable energy project changes Indigenous lives in Barkly | Guardian Sustainable Business | The Guardian 7/13/17, 12:52 PM. Retrieved on Feb. 10, 2018. <https://www.theguardian.com/sustainable-business/2016/jul/26/people-powered-renewable-energy-project-changes-indigenous-lives-in-barkly>


DOING IT RIGHT

Given the pivotal role of sustainable energy in poverty reduction, food security, livelihood generation, climate action and conflict prevention, it is essential to deal with the urgent and critical issues identified in this paper if the goals of the SDGs and the Paris Agreement are to be achieved without contradicting international laws and standards on human rights. This requires a more nuanced understanding of indigenous peoples' rights related to sustainable energy, and dedicated action to reach indigenous peoples to ensure they are not left behind. Given these unique and significant challenges, the **Indigenous Peoples' Major Group on the SDGs** is developing the **Right Energy Partnership (REP)** jointly with indigenous peoples in order to:

- Ensure that sustainable energy development will not have adverse impacts on indigenous communities;
- Empower indigenous communities to pursue self-determined sustainable development, particularly with regards to access to renewable energy that has broader community benefits (e.g., contributing to broader sustainable development outcomes and other related SDGs, as well as the related Paris Agreement on climate change); and
- Strengthen knowledge exchange, solidarity, collaboration and partnerships between indigenous peoples and other actors to contribute towards these goals.

The REP will be a multi-stakeholder partnership led by indigenous peoples and engaging a wide range of partners, including governments, bi-laterals, multi-laterals such as the UN, philanthropic institutions, private sector, local authorities/governments, experts in energy technology and financing and Non-Governmental Organisations. Clear commitments for each partner, guided by a comprehensive principles and conditions, will form the basis of this partnership.



The REP will advocate for indigenous peoples' rights with regards to sustainable energy development, and facilitate the delivery of appropriate energy programmes and projects to indigenous peoples' communities within the context of their self-determined development and equity. This will include identifying and promoting best practice in energy access and production that is both sustainable and people-centred, bringing economic, social and gender empowerment to indigenous communities. Central to this will be an emphasis on indigenous peoples as proponents, owners and partners in energy projects that are designed and implemented for and by communities.

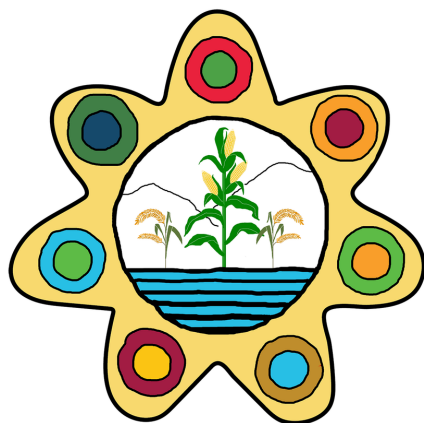
Activities will include, but not be limited to:

- Development of a rights-based framework for planning, implementing and monitoring sustainable energy projects at local and national levels.
- Technical assistance and capacity building for indigenous-led and indigenous-focused energy initiatives.
- Identifying and activating investment and funding of sustainable energy for and by indigenous communities.
- Pilot indigenous-led sustainable energy projects.
- Exchanges and inter-learning between indigenous communities and with partners.
- Monitoring and reporting on progress, lessons learned and challenges in relation to achieving SDG 7 for indigenous peoples.

The REP is being developed based on ongoing research on indigenous peoples' development challenges related to energy access, their experiences with sustainable energy developments and on partnerships with development actors at all levels. It will be shaped through broad consultations with indigenous peoples' organisations, communities and networks and experts in the field of sustainable energy. The Partnership will be launched in July 2018 during the High Level Political Forum on Sustainable Development.

The Indigenous Peoples Major Group (IPMG) acknowledges the financial support provided by the Oak Foundation on its Research Project on Indigenous Peoples and "Green Energy".

The IPMG also acknowledges the support of Tamalpais Trust and The Christensen Fund to the IPMG secretariat.



Indigenous Peoples Major Group for Sustainable Development Goals (IPMG-SDG)



IndigenousPeoplesMajorGroupSDG



@IPMGSDG



www.indigenouspeoples-sdg.org

For more info, contact:
Joan Carling, IPMG Co-convenor
at joan@indigenouspeoples-sdg.org; joan.carling77@gmail.com
or communications@indigenouspeoples-sdg.org